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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1253rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 6 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

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The meeting was called to order at 10.15 a.m.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE (agenda item 2) (continued)

1. The CHAIRMAN welcomed Ms. McDougall as a new member of the Committee, whose arrival had been delayed owing to her participation in a conference on racial discrimination which had just taken place in South Africa.

2. In accordance with rule 14 of the rules of procedure, Ms. McDOUGALL, as a newly elected member of the Committee, made the following solemn declaration:

> "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Elimination of Racial Discrimination honourably, faithfully, impartially and conscientiously."

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Thirteenth periodic report of the Netherlands (continued) (CERD/C/319/Add.2; HRI/CORE/1/Add.66, 67 and 68)

3. At the invitation of the Chairman, the delegation of the Netherlands took places at the Committee table.

4. Mr. HALFF (Netherlands), Head of the Legal and Social Affairs Division, Ministry of Foreign Affairs, said that before replying to the questions raised, he wished to make a few general comments.

5. Firstly, some ministries responsible more specifically for judicial matters, educational policy and housing were not represented in the delegation and it was not possible, therefore, to reply immediately to the questions relating to those areas. His delegation would make sure that answers were provided in the next report, taking account of the Committee's recommendations as well as the comments from non-governmental organizations (NGOs).

6. Some Committee members had criticized the periodic report of the Netherlands (CERD/C/319/Add.2) for covering too long a period and citing too much old data, while others had felt that it was not sufficiently complete on certain aspects. The Netherlands had endeavoured to strike a balance between thoroughness and readability, but that was not always easy. Regarding the consistency of terminology, a greater effort would be made in future, but the use of different expressions was sometimes unavoidable when dealing with different contexts or different laws.

7. In reply to the members of the Committee who regretted that the report referred only to the outcome of elections in the distant past, he wished to point out that municipal elections had been scheduled for 4 March and would provide an opportunity to undertake a more up-to-date review.

8. Lastly, he would say to the members who encouraged the Netherlands Government to cooperate more with NGOs that such cooperation might be seen as placing a constraint on the independence and freedom of expression of the NGOs concerned.

9. Mr. JACOBS (Netherlands), Netherlands Antilles Bureau of Foreign Relations, said that he would endeavour to respond more specifically to the questions which came within his field of expertise. To put those questions in their proper context, he wished to give some information about the historical and demographic development of the Netherlands Antilles. Although sparsely populated around 1900, the Netherlands Antilles had subsequently attracted immigrants of all origins, but mainly from the Caribbean region, when an oil refinery had been built in Curaçao in the 1920s. That had led to a considerable mixing of peoples, which meant that it was not easy today from a methodological point of view to prepare statistics differentiated with regard to ethnic origin.

10. For that reason the Netherlands Antilles had traditionally chosen to apply the criteria of place of birth or nationality to distinguish between nationals and migrants, although the use of those criteria might not always bring to light discrimination in all its forms.

11. He hoped that those explanations would satisfy Mr. Diaconu. In answer to the latter's question on the age structure of the migrant population, he indicated that in 1992 the 15-64 age group represented 88 per cent of the total migrant population in St. Maarten, reflecting a high proportion of economically active migrants.

12. The fact that migrants had a lower income level than the rest of the population could be explained quite easily. Most of them, in particular those from the Caribbean, were employed in light industrial and hotel or restaurant jobs, as well as in domestic service, where wages were low, resulting in a low average income for the total migrant group.

13. With regard to education, it was a fact that school facilities, particularly in St. Maarten, were insufficient to cope with the large influx of migrant children. The island was small and the education budget was limited, although its share in the total budget had increased substantially in recent years. Migrant workers had for that reason been allowed to establish some private elementary schools, which coexisted with the public schools, but that was admittedly not the ideal solution.

14. Lastly, he greatly regretted that he did not have the necessary data to provide an immediate answer to the question concerning rulings on foreign domestic workers, as referred to in paragraph 357 of the report. He hoped that some information could be provided in that regard in the next report.

15. Ms. KESSELS (Netherlands), Netherlands Antilles Bureau of Foreign Relations, replied to the questions from Mr. Diaconu concerning the second part of the report dealing with Aruba.

16. The Aruban population was a mixture of American Indian, European and African heritage. All people born on Aruba of a mother or father with

Netherlands nationality automatically acquired Netherlands nationality by birth, but that nationality could also be acquired in the course of time by immigrants of all origins. The population had thus become so mixed that it was now difficult to speak of national minorities. One consequence was that many of those Netherlands nationals did not have Dutch as their first language, but spoke the local language, Papiamento. However, education was still provided in Dutch in most schools, thereby enabling pupils, if they so wished, to continue their studies in Dutch universities. A system of bilingual education was currently under consideration and Papiamento could be taught in primary schools. A bill on official languages had been drafted with the objective of promoting the written use of Papiamento, in particular by administrative bodies. For practical reasons, however, Dutch would remain the language of the judiciary and legislation. It should be pointed out that the inhabitants of Aruba were completely free to use whatever language they desired and there was no discrimination on that basis, which would be contrary to the Constitution.

17. On the question of the admission quotas referred to by Mr. Diaconu, she said that only persons of Netherlands nationality had free entry to the island. All other persons needed a residence permit, which was issued only in connection with a work permit, the latter normally being provided for occupations where there was a labour shortage (for example, domestic service). That restrictive policy was due to the fact that Aruba was a small island which had a limited infrastructure and had in recent years experienced accelerated population growth.

18. Some admission quotas based on nationality had been applied in the past to deal with the influx of immigrants from Haiti and the Dominican Republic. However, those quotas had been deemed discriminatory and had been abolished about five years ago.

19. Mr. TILMANS (Netherlands), Ministry of Internal Affairs, replying to a question from Mr. Diaconu, explained that the Netherlands had given some responsibility for combating racial discrimination and promoting tolerance to members of civil society, including employers, schools and other institutions, because it was convinced of the value of self-regulation in that field. That approach had, moreover, inspired the Equal Treatment Act, which was discussed at length in the core document of the Netherlands (HRI/CORE/1/Add.66). That Act gave individuals or organizations representing their interests the possibility of filing a complaint with the Equal Treatment Commission if they felt that violations had been committed. The functioning of the Commission would be evaluated in 1998 and its authority would be extended if that appeared necessary.

20. Several questions had been asked about immigration policy and the treatment of migrants and minorities.

21. Netherlands law did, of course, prohibit discrimination on the ground of nationality. The policy of integration of newcomers was in no way intended to blur cultural differences and sought instead to promote tolerance and mutual acceptance. There was, however, bound to be some degree of assimilation in the course of time.

22. He wished to clear up a misunderstanding regarding the bill on the integration of immigrants that was currently under discussion in the Upper House of the Parliament. The legislation would apply to all immigrants with the exception of European Union citizens, tourists and persons staying temporarily in the Netherlands on the basis of a working contract. It also covered persons with Netherlands nationality coming to the Netherlands for the first time (for example, from Aruba or other countries outside the European region).

23. Lastly, the Frisian minority was not mentioned in the report because it was not an ethnic minority but a well-defined territorial minority with its own language and culture.

24. He shared Mr. Banton's opinion regarding the usefulness of reliable and comparable statistics on ethnic minorities, but one of the problems in that regard was that members of minorities no longer wished to be considered as such once they acquired Netherlands nationality. That made it difficult to identify them without interfering with their privacy. The issue of whether the rules concerning respect for privacy should be amended had, however, been raised.

25. Ms. GORIS (Netherlands), Ministry of Health, Welfare and Sport, said that her Government regarded sport as a good way of combating discrimination in all its forms and had organized a round table conference on sport, tolerance and fair play in Amsterdam in April 1996, which had been attended by almost all other European countries. In accordance with the Declaration issued by the Conference, a four-year Government-subsidized action plan would be conducted in the Netherlands with the help of sports and educational organizations and with support from leading Netherlands companies. A special foundation had been established to execute the plan. It could therefore be seen that the Government was not reneging on its responsibilities, as apparently feared by Mr. Yutzis, who saw the information given in paragraphs 31 to 34 of the report as an example of disengagement of the State, or even "deregulation".

26. Regarding access to health-care services, it was true that only legally residing immigrants could take part in health insurance schemes. That did not mean, however, that medical care was inaccessible for illegal immigrants, but they were expected to pay for such services. That rule, prompted by concern to keep health spending under control, was nevertheless tempered for needy persons, who could without charge receive "essential" health-care services, which included emergency treatment in life-endangering situations, prevention of loss of essential functions, care in situations where a danger to the health of third parties existed, maternity care and preventive youth health care, as well as vaccination programmes. The state of the patient and degree of urgency were evaluated by the medical doctor, and, if treatment was considered essential, the care provider could obtain reimbursement from a newly-founded private fund.

27. Mr. van BONZEL (Netherlands), Ministry of Social Affairs and Employment, explained for the benefit of Mr. Diaconu and Mr. Yutzis, who had expressed interest in the results achieved with the Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants of 1994,

that the Act laid down three obligations for employers: the introduction of specific registration of their personnel, the drawing up of public annual reports and the formulation of an internal work plan. It appeared from evaluations made in 1996 and 1997 that only 14 per cent of employers had met all three obligations. However, 57 per cent had observed the first requirement, even if it was seen as a purely administrative matter.

28. In November 1996, employers' and employees' organizations had drawn up a new agreement replacing the 1990 "Minorities Agreement" to encourage the access of ethnic minorities to employment. They had then advised the Government to change the 1994 Act in order to make it more conducive to the implementation of the new agreement, as well as to render it more effective by reducing the administrative burden on employers. Under the Act once amended, the employer would have to make only one report instead of two, as before, and enforcement of the Act would be based on civil law instead of criminal law. The new Act would be called the "SAMEN Act" and employers' compliance with it would be monitored by the Labour Inspectorate. The proposed legislation enjoyed broad political support and was expected to be passed by the Parliament during the current year.

29. In reply to Mr. Diaconu, who had inquired about the steps taken by the Government of the Netherlands to combat rising unemployment, which was affecting members of ethnic minorities despite the introduction of the Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants, said that the SAMEN Act was intended to remedy that very problem. In order to combat discrimination in recruitment, selection, dismissal and terms of employment, the General Act on Equal Treatment allowed for complaints to be made to the Equal Treatment Commission, which was empowered to initiate investigations of alleged discrimination in employment by persons or organizations, and also to mediate. The Act guaranteed workers invoking it protection against so-called "victimization" dismissal or discriminatory dismissal. The Equal Treatment Commission's report of 1996 showed that people were increasingly making use of that possibility.

30. Replying to Mr. Banton, he said that the Netherlands did not, like the United Kingdom, have a specific act protecting workers against "racial harassment". However, workers were protected by the General Act on Equal Treatment. Although the Act did not mention racial harassment, it afforded specific protection against discrimination in respect of employment or working conditions. The Equal Treatment Commission extended the concept of non-discrimination in employment to protection against harassment by an employer or by other employees. Thus, the employer had to ensure that his employees refrained from discriminating against their colleagues.

31. With regard to the questions from Mr. Yutzis concerning access to employment for ethnic minorities, he said that there were no reliable statistics available to determine whether the plans to create 60,000 jobs within five years for ethnic minorities, in order to make their labour market position proportionally equivalent to that of the indigenous working population, had achieved the expected results. What was certain, however, was that employment had increased among ethnic minorities, although to a lesser extent than among the indigenous population. Employers' and employees' organizations attributed the setback to disappointing economic growth in the

early 1990s and the increase in the supply of labour from the ethnic minorities, a phenomenon which could not have been foreseen.

32. Concerning the figures which showed that employment had increased by 8 per cent among ethnic minorities but that overall employment growth had not been reflected in that population group (CERD/C/319/Add.2, para. 114), he explained that those figures were quite old and did not depict the current situation in the labour market. The participation of ethnic minorities in the labour market had actually improved during the last few years, as indicated in the tables on pages 26 and 27 of the report. Over the period 1990-1995, the improvement in employment had been four times greater for the Moroccan, Turkish, Surinamese and Antillean ethnic minorities than among indigenous persons, i.e. 28 per cent against 7 per cent. Nevertheless, the unemployment rate for ethnic minorities (25 per cent) remained much higher than that for indigenous persons (6.9 per cent). The slight decrease in the rate of unemployment among minority groups was attributable to a parallel increase in the supply of labour, which had risen by 8 per cent for indigenous persons but by 25 per cent for minority groups. That phenomenon was due to the fact that the demographic growth of minority groups - 16 per cent - was much greater than that of the indigenous population, which amounted to only 1 per cent. The figures available for 1993-1996 showed a strong improvement in the employment rate of ethnic minorities, which had increased by 28 per cent, as against 4 per cent for the indigenous population.

33. Mr. SHAHI congratulated the delegation of the Netherlands on the exhaustiveness of the periodic report and thanked it for its oral replies concerning the implementation of the Convention. He would, however, like to know, whether the Government of the Netherlands was taking appropriate steps to prevent the dissemination of racist propaganda on the Internet, in compliance with article 4 (a) of the Convention. Was it planning to enact legislation to regulate the activities of that new medium? If not, how did it intend to prevent the creation of Websites for the dissemination of racist propaganda?

34. Mr. GARVALOV said that the delegation's oral replies would have met his expectations far more had they not focused disproportionately on certain aspects. He had been surprised to hear the term "territorial minority" for the first time, and the delegation's explanation that it meant not an ethnic minority but a linguistic minority hardly clarified the matter. It was perhaps worth recalling that the General Assembly, in the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, mentioned four types of minority groups: national, ethnic, religious and linguistic minorities.

35. Mr. YUTZIS said that, according to the annual socio-cultural survey cited in the report, the trend towards discrimination seemed to be increasing and a clear majority of the population was opposed to affirmative action for ethnic minorities. The figures given in the tables suggested to him that the hostility of the indigenous population towards ethnic minorities had decreased during the period 1985-1990 as compared with the levels before and after that period. He would like the delegation to explain that development in anti-immigrant sentiment.

36. He also noted from the report (paras. 130 and 131) that, in order to ensure that itinerants were treated like all other Netherlands citizens, the authorities were planning to amend the Caravan Act of 1968, as it was no longer in keeping with current housing policy. Considering that, on the one hand, the majority of the population was hostile to affirmative action on behalf of ethnic minorities and that, on the other, the Caravan Act was said to have discriminatory effects against the great majority of the Netherlands population, he was not sure that the provisions being contemplated would not be counter-productive. Was it certain that the principal beneficiaries of the new legislation would be itinerants and not the majority indigenous population?

37. He would also like to have more information about the nomadic groups concerned, including their number and identity, and to have confirmation that the provisions envisaged would not deprive them of any historical advantages. Considering the specific and delicate nature of the question, he would understand very well that the Netherlands delegation might wish to revert to it later.

38. Mr. de GOUTTES noted from the report (para. 151) that the State was continuing to provide grants to establishments associated with political parties holding racist views because the establishments in question had not been banned, by court order, on the grounds that they were a threat to public order. While he could understand that the Netherlands authorities were hesitant, out of respect for freedom of expression, to close such establishments, he nevertheless felt that it was too prudent and restrictive to continue allocating public funds to establishments associated with parties that violated the provisions of article 4 (b) of the Convention.

39. Mr. HALFF (Netherlands) said that it was difficult for the delegation to reply specifically to some of the Committee's additional questions since it had no representatives from relevant ministries such as the Ministry of Justice who might, for example, have been able to answer Mr. Shahi's question about the dissemination of racist propaganda on the Internet. He would, however, make sure that information on that question was included in the next periodic report.

40. His delegation regretted that its replies had not entirely satisfied Mr. Garvalov, although it had done its best to provide the Committee with the desired clarifications. Mr. Garvalov had furthermore been surprised at the delegation's use of the term "territorial minority"; that term had been used only when citing sources which had themselves employed it. His delegation would endeavour to employ consistent terminology on each issue in its future reports.

41. He was unfortunately not in a position to explain to Mr. Yutzis the reasons for the greater hostility towards ethnic minorities before 1985 and after 1991 or to answer his questions about the proposed amendments to the Caravan Act. Those questions would be submitted to the Ministry of Justice and to the Ministry of Housing, respectively, and answers would be provided in the next periodic report of the Netherlands.

42. Mr. TILMANS (Netherlands), replying to Mr. de Gouttes, who had expressed surprise that the Government of the Netherlands was continuing to subsidize establishments associated with racist parties, said that the possibility of ending such grants and prohibiting access to public radio and television for parties disseminating racist propaganda was being considered by the Parliament.

43. Mr. HALFF (Netherlands), answering a question concerning Frisian, said that the language was spoken exclusively by the inhabitants of the northern province of Friesland, who could use it freely as well as Dutch. The regional nature of the language was connected with history and administrative practice.

44. The CHAIRMAN commended the quality of the reports submitted by the Netherlands and the remarkable spirit of cooperation that the State party had always shown with a view to ensuring the implementation of the Convention.

45. Mr. DIACONU (Country Rapporteur) likewise welcomed the extremely interesting, constructive and substantive dialogue held between the Committee and the Netherlands delegation. Judging from the legislation currently being drafted to guarantee health care for the wives and children of illegal immigrants, the authorities were taking steps that met some of the Committee's concerns. They were also taking specific action against the activities of racist organizations.

46. He urged the Netherlands authorities to consult non-governmental organizations during the preparation of their periodic reports, in the same way as other countries, without fear of affecting the independence of the NGOs. Those organizations were sufficiently robust to maintain their autonomy, and their viewpoints deserved to be taken into consideration.

47. The Committee should stress a number of points in the dialogue with States parties. The question of nationality sometimes gave rise to slightly different interpretations, some viewing it in the sense of national origin and others in terms of citizenship. Emphasis should be placed on citizenship, while ensuring that the concept of national or ethnic origin was duly reflected, in accordance with article 1 of the Convention.

48. The Frisians could certainly be described as a linguistic and historical minority, meeting all the relevant criteria accepted in Europe.

49. He thanked the delegation of the Netherlands and hoped that a representative of the Ministry of Justice would be present during the consideration of the country's next periodic report.

50. The CHAIRMAN warmly thanked the delegation of the Netherlands for its efforts to reply as fully as possible to the many questions put by the members of the Committee and for having contributed to a fruitful dialogue. He announced that the Committee had thus completed its consideration of the thirteenth periodic report of the Netherlands.

51. The delegation of the Netherlands withdrew.

The meeting was suspended at 11.40 a.m. and resumed at 11.45 a.m.

Review of the implementation of the Convention in Antigua and Barbuda

52. The CHAIRMAN announced that Antigua and Barbuda had requested that the review of the implementation of the Convention in its territory be deferred to the Committee's fifty-third session and had given the assurance that its report would be submitted in time for that session. If he heard no objection, he would take it that the Committee wished to grant the request.

53. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 6) (continued)

Consideration of the situation in Bosnia and Herzegovina

54. The CHAIRMAN said the Bureau recommended that the situation in Bosnia and Herzegovina should not be considered under agenda item 6 in the current circumstances. Since the Government had not announced that a representative would be sent, there could be no dialogue. He invited the members of the Committee to give their views on the matter.

55. Mr. RECHETOV recalled that, in the absence of a representative of the country in question, the Committee had in the past consulted the special rapporteurs of certain other relevant bodies; he proposed that, for example, the Committee should hear Ms. Rehn, in her capacity as Special Rapporteur on the situation in Bosnia and Herzegovina, for it could hardly expect worthwhile information from representatives that the country might send with reluctance.

56. The CHAIRMAN said he feared that by acting on Mr. Rechetov's proposal, the Committee would be setting a precedent; he recalled that article 9 of the Convention required the Committee to rely in its work essentially on the reports and information received from States parties. That did not, of course, prevent it from drawing on other sources to supplement the information available, and the Committee might wish to give some thought to that suggestion.

57. Mr. SHAHI shared Mr. Rechetov's concern. If the Committee adhered strictly to the terms of article 9 of the Convention to study the situation in a country under the agenda item on prevention of racial discrimination, it might well deprive itself of valuable information. The Committee should at least ask to hear from someone who was well informed about the situation in Bosnia and Herzegovina.

58. The CHAIRMAN said that such a request had little chance of being heard, but it could be transmitted and the Committee might wish to leave until later a decision on what action should be taken.

59. Mr. van BOVEN said that he was not against postponing consideration of the situation in Bosnia and Herzegovina, but urged that the question be kept under agenda item 6. It should be remembered that the Dayton Agreement was far from being given effect as it should, that segregation was still being practised and that the Committee had received no reply to its proposals to

assist in the implementation of the Agreement. He suggested that the authorities of Bosnia and Herzegovina should again be contacted and advised that the Committee had not discontinued consideration of the situation in their country. In the meantime, it should provide itself with the means it lacked to undertake that review.

60. Mr. de GOUTTES, referring to the various proposals made by earlier speakers, suggested that the question of the situation in Bosnia and Herzegovina should be kept under agenda item 6 and that the Committee should send the authorities of Bosnia and Herzegovina a letter to advise them that the situation in their country would be examined in August 1998 and to request them to delegate representatives to participate in the proceedings. Lastly, the Committee could express the wish to be kept informed, if not by Ms. Rehn, who had been called upon to perform other duties, then for example by Ms. Haller, the Human Rights Ombudsperson for Bosnia and Herzegovina. In any event, the Committee's vigilance must not be relaxed.

61. Mr. SHERIFIS recalled that, in paragraph 5 of its decision 2 (51) on Bosnia and Herzegovina, the Committee had decided to remain seized of the situation in Bosnia and Herzegovina under its agenda item on prevention of racial discrimination, and had expressed the wish that the State party concerned should be present at the next examination of that situation. The State party had been duly informed of that decision but the Committee had thus far received no reply.

62. As to the question of referring to a well-informed source, Ms. Rehn, even if no longer exercising the same functions, was still the most appropriate person. In the absence of a representative of the State party, the Committee certainly must be able to hear a reputed expert on the matter.

63. The CHAIRMAN said that he was not very favourable in principle to the idea of inviting a person from another body to take part in the Committee's discussions, but he nevertheless proposed that the Committee should study the possibility.

64. Mr. YUTZIS proposed to draft a note outlining a way in which the proposals made by Mr. de Gouttes could be put into effect and enable the Committee to remain actively vigilant and not simply waiting for new developments.

65. The CHAIRMAN welcomed that initiative. He proposed that the draft to be prepared by Mr. Yutzis should be studied first by the Bureau and then by the Committee.

66. It was so decided.

Consideration of the situation in the Democratic Republic of the Congo

67. Mr. BANTON (Country Rapporteur) recalled that as early as 1988 the Committee had expressed concern about the situation in the country in question. Unfortunately, what had seemed to be only a small cloud had become a terrible storm that had dismantled civil society and had already left millions dead. It was generally felt that it would have been better for

preventive measures to have been taken from the very outset and it was regrettable that the Organization of African Unity had not had more effective means to use. The Committee now had only a small role to play on the international scene; the Security Council could dispose of the resources needed and other bodies had the necessary competence and experience.

68. Nevertheless, the Committee had a duty to act and he proposed to draft a declaration for transmittal to the competent bodies saying essentially that, in the Committee's view, the United Nations should pursue its investigations into human rights violations in the Democratic Republic of the Congo and emphasize the need to bring those responsible to justice; that consideration should be given to extending the mandate of the International Tribunal of Arusha so that it could try the war crimes and crimes against humanity committed in the Democratic Republic of the Congo; and that the necessary assistance must be provided, as a matter of priority, for the administration of justice in the country to ensure that it had a real judiciary which could play its role in the restoration of public order. The declaration should be included in the Committee's report to the General Assembly and should be sent to the competent bodies without waiting for the report to be published.

69. Mr. SHAHI said that the declaration should be sent to the appropriate authorities as soon as possible. He referred Mr. Banton to a recent report by Human Rights Watch/Africa which summarized the situation in the Democratic Republic of the Congo and contained recommendations addressed to the Governments of that country and Rwanda, and to representative bodies of the international community, such as the United Nations and the European Union.

70. The CHAIRMAN pointed out that the investigative team sent by the Security Council to the Democratic Republic of the Congo had included one of the members of the Committee and noted that there was a lack of information about the work of that mission. Perhaps the new High Commissioner for Human Rights, Mrs. Robinson, could clarify the matter for the Committee and explain the refusal of the Government of the Democratic Republic of the Congo to cooperate. He further requested Mr. Shahi to consult with Mr. Banton and explain what "appropriate authorities" he had in mind.

71. Mr. DIACONU said that he was not opposed to Mr. Banton's initiative but pointed out that the Democratic Republic of the Congo was the theatre of human rights violations of all kinds and that the Committee's terms of reference limited its field of action to manifestations of racial discrimination. Care would therefore have to be taken to select information of relevance to the Committee, and that would be no easy matter because some human rights violations affected Rwandan refugees, some were perpetrated by Rwandans, others by Congolese and still others, aimed at Congolese ethnic groups, were committed by Congolese and Rwandans alike.

72. Regarding the purpose of the declaration, he thought that, considering the difficult stage reached in the dialogue between the United Nations and the Democratic Republic of the Congo, it would be better to address the text to the High Commissioner for Human Rights and ask her what action the United Nations intended to take to deal with the situation. Another question was when and how the Committee would have the possibility of establishing a

dialogue with the new authorities, in connection with a periodic report submitted by the Democratic Republic of the Congo under article 9 of the Convention.

73. Mr. de GOUTTES agreed fully with Mr. Diaconu that the Committee should first address the High Commissioner for Human Rights. It also had every interest in taking account of the work and decisions of the Commission on Human Rights, which would likewise be seized of the question.

74. The latest Human Rights Watch bulletin contained some information about the new investigative team appointed by the Security Council following the setback of the earlier mission. It appeared that the new mission had also made no progress and was in effect suspended. It would be worth asking the High Commissioner for Human Rights for more precise information if, as he hoped, Mrs. Robinson intended to participate in a meeting of the Committee during the current session.

75. Mr. VALENCIA RODRIGUEZ endorsed Mr. Banton's proposal. Regarding the mission to the Democratic Republic of the Congo established by the Secretary-General of the United Nations, he indicated that he had met Mr. Chigovera, a member of that mission, in New York in November 1997. Mr. Chigovera had told him that, during their first visit to the Democratic Republic of the Congo, the members of the mission, who had asked to visit the region where human rights violations had been committed and to hear from witnesses, had not been authorized to do so and had remained in the capital. The results of their second visit would be put before the Commission on Human Rights at its next session.

76. The CHAIRMAN thanked Mr. Valencia Rodríguez for the updated information. The Committee could request Mr. Banton to inquire about the results of the mission and could also ask the High Commissioner for Human Rights to provide information on the matter. It could express its deep concern about the situation in the Democratic Republic of the Congo.

77. Mr. van BOVEN said that the Committee currently knew very little about the situation in the Democratic Republic of the Congo and the Commission on Human Rights would, of course, be meeting shortly. In that connection, Mr. Garretón had been appointed special rapporteur by the Commission on Human Rights to make inquiries concerning the situation in the Democratic Republic of the Congo, and the Security Council had authorized the Secretary-General to send an investigative team to that country. Mr. Garretón was due to report on the situation very soon.

78. The CHAIRMAN said it would be useful for the Committee to obtain the report and proposed that it keep pending the consideration of the situation in the Democratic Republic of the Congo.

79. It was so decided.

Consideration of the situation in Kosovo

80. Mr. GARVALOV said that he was extremely concerned about the situation in Kosovo. He felt that the Committee should act as quickly as possible.

81. The CHAIRMAN said that the Committee's secretariat had been in contact, both in writing and orally, with the Yugoslav Mission, which had confirmed that it would be sending a delegation to present its report on the implementation of the Convention. He therefore suggested that the Committee should wait for that presentation, scheduled for the following week, to put to the Yugoslav delegation all the questions it wished to raise.

82. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Mission of Mr. Yutzis to Guatemala

83. Mr. YUTZIS, presenting the report he had prepared on his mission to Guatemala (CERD/C/52/Misc.22), indicated that the report began by describing the situation in the country afte 36 years of civil war and the peace agreements signed on 19 December 1996. The second part of the report considered the positive aspects of the peace process that would contribute to the implementation of the Convention. The third part reported on obstacles and limitations to the peace process which affected the implementation of the Convention. Lastly, in the fourth part, he drew various conclusions from his mission. He pointed out that he had been provided with all the necessary assistance in his work by the Government and by the Presidential Commission on Human Rights. He had also been able to meet numerous representatives of the indigenous communities.

84. The situation in Guatemala remained precarious, since it was difficult to overcome three decades of war. Moreover, the fragility of the judicial system and the grave economic difficulties were harmful to the implementation of the Convention. Conflicts were likely to recur. In the conclusion of his report, he emphasized that clear-cut and operational mechanisms had to be established to involve civil society and the indigenous sectors satisfactorily and effectively in the implementation of the peace agreements, and that the Government should specifically reaffirm its determination to include the indigenous peoples' pluralist vision and practice in the process of building peace.

85. The CHAIRMAN suggested that the Committee should draft a recommendation concerning the situation in Guatemala.

86. Mr. VALENCIA RODRIGUEZ supported the Chairman's proposal. He endorsed the conclusions of the report prepared by Mr. Yutzis and said he would like more information about the persisting climate of violence and impunity referred to in chapter III of the report. The Government gave an assurance, in particular, that the climate of violence had been dispelled.

87. Mr. NOBEL commended the quality and structure of the report. He would like to know the current position regarding the repatriation of the Maya people who had taken refuge in Mexico because of the civil war.

88. Mr. van BOVEN welcomed the report by Mr. Yutzis. He would like some information about the results of the work of the truth and reconciliation commission set up after the civil war. Also, did Mr. Yutzis think that the

question of impunity tended to facilitate or hamper the peace process? Many of the indigenous people, who represented the majority of the population, had been victims of the civil war. What was their current status?

89. Mr. DIACONU thanked Mr. Yutzis for his report. He would like to know how his terms of reference, namely to assist the State party in the implementation of the Convention, had been applied in practice. The report said nothing about Guatemalan legislation. If there was any anti-discrimination legislation, was it adequate? Had the conclusions of the report been communicated to the Government and, if so, had it provided any reply? Lastly, he noted that the conclusions referred to the peace process. In his view, they should have focused on the implementation of the Convention.

90. Mr. de GOUTTES thanked Mr. Yutzis for having emphasized the problem of impunity and the difficulties encountered by the judiciary which hindered the peace process. Those points were, in his view, relevant to the Convention. The report suggested that indigenous people did not have access to the justice system and were mistrustful of it. The Committee should place emphasis on the relationship between indigenous people and the judiciary. Obviously, there were political difficulties that stemmed from the lack of resources made available by the Government for the administration of justice.

91. Mr. SHERIFIS congratulated Mr. Yutzis on his report. Like Mr. de Gouttes, he wished to underline the difficulties in the relationship between the various indigenous populations and the judiciary. What was the situation of the Maya who had taken refuge in Mexico? He recommended that the discussion on the situation in Guatemala should be pursued at a later meeting, since the quality of the report warranted it.

92. Mr. YUTZIS said that he had taken account of the fact that 85 per cent of the population was indigenous in drafting his report, which was oriented towards the implementation of the Convention.

93. The CHAIRMAN proposed that the Committee should revert to the report prepared by Mr. Yutzis at a later meeting.

94. It was so decided.

The meeting rose at 1.05 p.m.